

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 589 – HB 696

April 11, 2015

SUMMARY OF ORIGINAL BILL: Requires major procurement contracts between the state and a vendor to contain a provision that the vendor and the vendor's subcontractors shall collect and remit sales and use taxes on taxable sales of goods and services in connection with such contract. Authorizes a vendor to terminate a major procurement contract with a state agency that does not include this provision. Requires the vendor to include the same provision in a contract with a subcontractor and to provide a copy of such contract to the appropriate state agency. Authorizes a state agency to terminate a major procurement contract with a vendor who does not include such provision in a contract with a subcontractor. Authorizes a subcontractor to terminate a contract with a vendor who does not include such provision. Defines "major procurement contract" as any good or service costing more than \$75,000, including major advertising contracts, annuity contracts, consulting services, equipment, and other products and services unique to the functions performed by the state agency, but not including materials, supplies, equipment, and services common to the ordinary operations of the state agency.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (006158): Deletes all language after the enacting clause. Requires major procurement contracts between a state governmental entity, including the Tennessee Education Lottery Corporation (TELC), and a vendor to contain a provision that the vendor, vendor's subcontractors, and staffing agencies that provide to the vendor employees on a contract basis shall collect and remit sales and use taxes on taxable sales of goods and services in connection with such contract. Requires the vendor to include the same provision in a contract with a subcontractor or staffing agency and to provide a copy of such contract to the appropriate state governmental entity or the TELC. Requires the vendor, subcontractor, or staffing agency to register to collect and remit sales and use taxes pursuant to Tenn. Code Ann. § 12-3-306, and file appropriate tax returns. Defines "major procurement contract" as any good or service costing more than \$75,000, including major advertising contracts, annuity contracts, consulting services, equipment, and other products and services unique to the functions performed by the state agency, but not including materials, supplies, equipment, and services common to the ordinary operations of the state governmental entity. Defines the terms "retailer" and "vendor".

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

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Assumptions for the bill as amended:

- Pursuant to the Central Procurement Office (CPO) Contracting Manual, Contract Models and Templates, the contract template includes the following language:
“Tennessee Department of Revenue Registration. The contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. § 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this contract.”
- The CPO will draft a mandatory contract clause for use in all applicable contracts. The CPO’s Compliance Team will conduct random compliance reviews on those contracts to ensure inclusion of the mandatory clause.
- According to the CPO, the proposed legislation does not impact the CPO’s existing laws, rules, or policies regarding procurements and will not have a fiscal impact on the Department.
- The Department of Revenue assumes that vendors and their subcontractors are already collecting and remitting sales and use tax and the proposed bill will result in little or no increase in sales tax collected.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, appearing to read "Jeffrey L. Spalding", written in a cursive style.

Jeffrey L. Spalding, Executive Director

/rnc